

EXHIBIT A

CAUSE NO. C-0858-21-I

BLATHE NICOLE SLOUGH,

Plaintiff,

v.

**LEGACY HOME HEALTH AGENCY,
INC.,**

Defendant.

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IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

398th JUDICIAL DISTRICT

INDEX OF MATTERS BEING FILED WITH NOTICE OF REMOVAL

	Date	Description
1.	03/04/2021	Plaintiff's Original Petition
2.	03/08/2021	Citation
3.	03/30/2021	Return of Process
4.	04/16/2021	Defendant's Original Answer
5.		List of Counsel of Record
6.		Docket Sheet

C-0858-21-I
CAUSE NO. [* _____*]

BLATHE NICOLE SLOUGH Plaintiff, V. LEGACY HOME HEALTH AGENCY, INC Defendant.	§ § § § § § § §	IN THE DISTRICT COURT [* _____*] JUDICIAL DISTRICT OF HIDALGO COUNTY, TEXAS
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PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Blathe Nicole Slough, hereinafter called Plaintiff, complaining of and about Legacy Home Health Agency, Inc., hereinafter called Defendant, and for cause of action shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery Level 3.

PARTIES AND SERVICE

2. Plaintiff, Blathe Nicole Slough, is an Individual whose address is 310 West Todd, Progresso, Texas 78579. The last three numbers of Blathe Nicole Slough's driver's license number are 760. The last three numbers of Blathe Nicole Slough's social security number are 017.

3. Defendant Legacy Home Health Agency, Inc., a Corporation based in Texas, is organized under the laws of the State of Texas, and service of process on the Defendant may be effected pursuant to sections 5.201 and 5.255 of the Texas Business Organizations Code, by serving the registered agent of the corporation, Ambrosio Hernandez, at 104 W. Huntington St. Beeville, Texas 78102, its registered office. Service of said Defendant as described above can be effected by certified mail, return receipt requested.

C-0858-21-I**JURISDICTION AND VENUE**

4. The subject matter in controversy is within the jurisdictional limits of this court.
5. Plaintiff seeks:
 - a. only monetary relief of \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney fees and costs.
6. This court has jurisdiction over the parties because Defendant is a Texas resident.
7. Venue in Hidalgo County is proper in this cause.

NATURE OF ACTION

8. This is an action under Chapter 21 of the Texas Labor Code, Section 21.001 et. seq. Texas Labor Code, as amended, to correct unlawful employment practices on the basis of sex and disability.
9. This is an action under 29 U.S.C. Section 2601 et. seq. to correct violations of the Family Medical Leave Act (FMLA).

CONDITIONS PRECEDENT

10. More than 180 days prior to the institution of this lawsuit, Plaintiff filed a charge with the Texas Workforce Commission, Civil Rights Division, alleging violations of Chapter 21 Employment Discrimination of the Texas Labor Code. The charge was transferred to the Equal Employment Opportunity Commission (EEOC). A notice of the right to file a civil action has been requested from the Equal Employment Opportunity Commission. All conditions precedent to the institution of this lawsuit have been fulfilled. This suit is brought within two years of the date the complaint relating to the action was filed.

FACTS

- 11.01. On October 2, 2017 Plaintiff started working with Defendant as a Human

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Resource (HR) Representative. Plaintiff first became pregnant in April 2018 and was told by Defendant she was not allowed to be out of work. She was informed she would have to work until she delivered on November 7, 2018.

11.02. Due to her pregnancy, Plaintiff requested nine weeks of FMLA leave after delivering. She was denied that request. Plaintiff was only allowed to take four weeks of FMLA leave after giving birth. Plaintiff returned to work on December 5, 2018 and was demoted to HR Coordinator without having given a reason and without cause.

11.03. On or about February 22, 2019, Plaintiff's position and title was changed to that of a Electronic Visit Verification (EVV) Supervisor. While her pay remained the same, Plaintiff was now paid on a salary basis. In March of 2019, Plaintiff informed her supervisor of her second pregnancy. Prior to this, Plaintiff had never received any disciplinary write ups or warnings of any kind.

11.04. After disclosure of her second pregnancy, she encountered pregnancy related animus from upper management. Upper management informed HR that, "If she is going to be pregnant again, I do not want her working here. We already went through this last year, we will not go through this again." In addition to this, Plaintiffs suffered pregnancy related animus in form of anti-pregnant employee policies coming from upper management that were distributed through email correspondence. Immediately after this disclosure Plaintiff was harassed and received disparate treatment in form of write ups, employee policies that target pregnant employees, and by not being allowed to take time off from work.

11.05. On or about March 21, 2019 Plaintiff received a Notice of Disciplinary Action from EVV Director, Ahyra Guerrero. Plaintiff was demoted to HR Coordinator and set to hourly pay. On March 27, 2019 Plaintiff was called into the conference room by EVV Director, Ahyra

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Guerrero, and received a second Notice of Disciplinary Action.

11.06. Plaintiff was terminated ultimately on March 27, 2019. At the time of her termination, Plaintiff was in a protected class (Pregnant female), that protected her from discrimination for accommodations based on her pregnancy. Plaintiff attempted to receive accommodations for her pregnancy not one time, but two times and employer still failed to accommodate her. However, employer would accommodate other employees who were similarly situated in their inability to work.

SEX DISCRIMINATION

12. Defendant, Legacy Home Health Agency, Inc., intentionally engaged in unlawful employment practices involving Plaintiff because she is a female.

13. Defendant, Legacy Home Health Agency, Inc., discriminated against Plaintiff in connection with the compensation, terms, conditions and privileges of employment or limited, segregated or classified Plaintiff in a manner that would deprive or tend to deprive her of any employment opportunity or adversely affect his status because of Plaintiff's sex in violation of the Texas Labor Code.

14. Defendant, Legacy Home Health Agency, Inc., classified Plaintiff in a manner that deprived her of an equal employment opportunity that was provided to employees similarly situated in violation of the Texas Labor Code.

15. Plaintiff alleges that Defendant, Legacy Home Health Agency, Inc., discriminated against Plaintiff on the basis of sex with malice or with reckless indifference to the state-protected rights of Plaintiff.

FAMILY MEDICAL LEAVE ACT

21. Defendant, Legacy Home Health Agency, Inc., interfered, restrained or denied

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Plaintiff his rights under the Family Medical Leave Act.

22. Defendant, Legacy Home Health Agency, Inc., intentionally discriminated against Plaintiff in connection with the compensation, terms, conditions and privileges of employment in violation of the Family Medical Leave Act.

23. Plaintiff alleges that Defendant, Legacy Home Health Agency, Inc., willfully discriminated and interfered with Plaintiff's rights under the Family Medical Leave Act.

RETALIATION BY LEGACY HOME HEALTH AGENCY, INC

25. Plaintiff alleges that Defendant Legacy Home Health Agency, Inc., instituted a campaign of retaliation which included termination and denial of Family Medical Leave Act. This retaliation was and is due to the Plaintiff exercising her rights by requesting leave under the Family Medical Leave Act. Plaintiff suffered damages for which Plaintiff herein sues.

DAMAGES

26. Plaintiff sustained the following damages as a result of the actions and/or omissions of Defendant described hereinabove:

- a. Actual damages;
- b. All reasonable and necessary Attorney's fees incurred by or on behalf of Plaintiff, including all fees necessary in the event of an appeal of this cause to the Court of Appeals and the Supreme Court of Texas, as the Court deems equitable and just as provided by the Texas Labor Code section 21.259. All conditions precedent have been performed or have occurred;
- c. Back pay from the date that Plaintiff was denied equal pay for equal work and interest on the back pay in an amount to compensate Plaintiff as the Court deems equitable and just as provided by the Texas Labor Code section 21.258;
- d. All reasonable and necessary costs incurred in pursuit of this suit;
- e. Emotional pain;

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- f. Front pay in an amount the Court deems equitable and just to make Plaintiff whole;
- g. Mental anguish in the past;
- h. Mental anguish in the future;
- i. Loss of earnings in the past; and
- j. Loss of benefits.

EXEMPLARY DAMAGES

27. Plaintiff would further show that the acts and omissions of Defendant complained of herein were committed with malice or reckless indifference to the state-protected rights of the Plaintiff. In order to punish said Defendant for engaging in unlawful business practices and to deter such actions and/or omissions in the future, Plaintiff also seeks recovery from Defendant for exemplary damages as provided by Section 21.2585 of the Texas Labor Code.

C-0858-21-I**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Blathe Nicole Slough, respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; exemplary damages, excluding interest, and as allowed by Section 21.2585 of the Texas Labor Code, together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

THE VARGAS LAW OFFICE

324 W. University Drive,
Edinburg, Texas 78539
Tel. (956) 287-3743
Email: thevargaslawoffice@gmail.com

By: _____


Daniel E. Vargas
Texas Bar No. 24072403
Attorney for Plaintiff Blathe Nicole Slough

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

C-0858-21-I
398TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

THE STATE TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

Legacy Home Health Agency, Inc.
Registered Agent: Ambrosio Hernandez
104 W. Huntington St.
Beeville, Texas 78102

You are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable 398th District Court of Hidalgo County, Texas at the Courthouse, 100 North Closner, Edinburg, Texas 78539.

Said Petition was filed on this the 4th day of March, 2021 and a copy of same accompanies this citation. The file number and style of said suit being, **C-0858-21-I, BLATHE NICOLE SLOUGH VS. LEGACY HOME HEALTH AGENCY, INC.**

Said Petition was filed in said court by Attorney DANIEL E. VARGAS, 324 W UNIVERSITY DR EDINBURG TX 78539.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

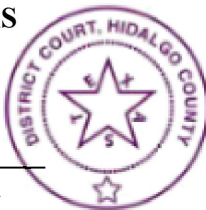
The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 8th day of March, 2021.

LAURA HINOJOSA, DISTRICT CLERK
100 N. CLOSNER, EDINBURG, TEXAS
HIDALGO COUNTY, TEXAS



MIRANDA GARZA DEPUTY CLERK



CERTIFIED MAIL 9214 8901 0661 5400 0160 6006 89

**CERTIFICATE OF RETURN
UNDER RULES 103 T.R.C.P.**

This is to certify that on this the 8th day of March, 2021 I, Miranda Garza, Deputy Clerk of the 398th District Court of Hidalgo County, Texas mailed to the defendant in Cause Number C-0858-21-I, Blathe Nicole Slough VS. Legacy Home Health Agency, Inc. a copy of the citation along with a copy of the petition by certified mail return receipt requested. Return receipt was returned on the ____ day of _____, 201__ (or unserved for the reason on the certificate return) _____.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Edinburg, Texas on this the 8th day of March, 2021.

**LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS**

MIRANDA GARZA, DEPUTY CLERK

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

“My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the ____ day of _____, 20____.

Declarant”

**If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number**



LAURA HINOJOSA

HIDALGO COUNTY DISTRICT CLERK

Greetings:

Attached you will find the service requested.

May this serve to inform you that service has been issued. Please proceed in attaching any file stamped documents that need to be served on your issued service.

Please note, the link you are about to open is a "live link" notification. Please ensure you are printing the service which includes our clerk's signature and the State Seal. If you are opening a document without the official certification (signature and seal), please close the window until the document is processed accordingly. This may take a few minutes.

* When serving protective orders, please DO NOT serve the TCIC form to respondent.

We appreciate the opportunity to assist you. Please contact our office if you have any questions or require additional information.

Sincerely,

A handwritten signature in cursive script that reads "Laura Hinojosa".

Laura Hinojosa
Hidalgo County District Clerk



MAR 24 2021

March 24, 2021

Dear MAIL MAIL:

LAURA HINOJOSA, CLERK
 District Courts, Hidalgo County
 By [Signature] Deputy #21

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 0661 5400 0160 6006 89.

Item Details

Status: Delivered, Front Desk/Reception/Mail Room
Status Date / Time: March 23, 2021, 10:31 am
Location: BEEVILLE, TX 78102
Postal Product: First-Class Mail®
Extra Services: Certified Mail™
 Return Receipt Electronic
Recipient Name: AMBROSIO HERNANDEZ

Recipient Signature

Signature of Recipient:

[Signature]
 P. MONTGOMERY

Address of Recipient:

104 W HUNTINGTON ST
 BEEVILLE TX

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
 United States Postal Service®
 475 L'Enfant Plaza SW
 Washington, D.C. 20260-0004

The customer reference information shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Reference ID: 92148901066154000160600689
 C-0858-21-I
 AMBROSIO HERNANDEZ
 Legacy Home Health Agency, Inc
 104 W. Huntington St.
 Beeville, TX 78102-0000

CERTIFICATE OF RETURN
TRCP 107

This is to certify that on this the 8th day of March, 2021, I MIRANDA GARZA, Deputy Clerk of the 398th District Court of Hidalgo County, Texas mailed to **Legacy Home Health Agency, Inc.**, in Cause No. **C-0858-21-I, BLATHE NICOLE SLOUGH VS. LEGACY HOME HEALTH AGENCY, INC.**, a copy of the citation along with a copy of the petition, by certified mail, return receipt requested. Return receipt was received **on this the 24th day of March, 2021, CLAIMED.** See attached return.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in Edinburg, Texas on this the 24th day of March, 2021

**LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS**


MIRANDA GARZA

FILED
AT _____ O'CLOCK _____ M
MAR 24 2021

LAURA HINOJOSA, CLERK
District Courts, Hidalgo County
By  Deputy#21

CAUSE NO. C-0858-21-I**BLATHE NICOLE SLOUGH,****Plaintiff,****v.****LEGACY HOME HEALTH AGENCY,
INC.,****Defendant.**

§ **IN THE DISTRICT COURT**
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 § **HIDALGO COUNTY, TEXAS**
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 § **398th JUDICIAL DISTRICT**

**DEFENDANT LEGACY HOME HEALTH AGENCY, INC.'S ORIGINAL ANSWER
AND AFFIRMATIVE DEFENSES**

Defendant Legacy Home Health Agency, Inc. ("Defendant" or "Legacy"), submits this, its Original Answer and Affirmative Defenses to Plaintiff's Original Petition ("Petition") and would show the Court as follows:

I.**GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant denies each and every allegation contained in the Petition and any supplement or amendment thereto and demands strict proof thereof by a preponderance of the evidence.

II.**DEFENDANT'S AFFIRMATIVE DEFENSES**

Subject to and without waiving its general denial, and in the alternative, if necessary, and without waiving Plaintiff's burden to show otherwise, Defendant asserts the following defenses:

1. Plaintiff's Petition fails to state, in whole or in part, a claim upon which relief can be granted.
2. Plaintiff's Petition fails to state a claim upon which relief may be granted under the

FMLA, in whole or in part, as Plaintiff received any and all leave to which she may have been entitled.

3. Defendant asserts all employment-related decisions made with respect to Plaintiff were made in good faith, for legitimate, non-retaliatory reasons, and were based upon reasonable factors.

4. Defendant asserts that the employment actions about which Plaintiff complains were taken for reasons other than Plaintiff's sex, pregnancy, alleged exercise of rights under the FMLA, or any other alleged protected status held by Plaintiff.

5. Notwithstanding Defendant's general denial, to the extent Plaintiff establishes that any alleged protected activity was a motivating factor for any employment decision challenged herein, which Defendant denies, Defendant affirmatively states that it would have taken the same action in the absence of such an impermissible motivating factor.

6. Defendant asserts that its actions with respect to Plaintiff were consistent with business necessity.

7. Defendant asserts that Plaintiff's claims are barred or any recovery should be offset by the after-acquired evidence doctrine, if applicable.

8. Defendant asserts that Plaintiff's claims for economic, compensatory and punitive damages and other relief are subject to all applicable statutory caps and limitations.

9. Defendant asserts that its alleged unlawful actions were not willful, malicious or reckless.

10. Defendant asserts that Plaintiff has failed to allege facts sufficient to state a claim for punitive or liquidated damages.

11. Defendant asserts Plaintiff's claims are barred by the doctrines or waiver, estoppel,

and/or laches.

12. Defendant asserts that this action is frivolous, unreasonable, and groundless, and accordingly, Defendant is entitled to attorneys' fees and other costs associated with the defense of this action.

13. Defendant reserves the right to assert further defenses, including affirmative defenses, as they become evident through discovery or investigation.

III.

REQUEST FOR DISCLOSURE

Under Texas Rule of Civil Procedure 194, Defendant requests that plaintiff disclose, within 30 days of the service of this request, the information or material described in Rule 194.2.

WHEREFORE, having fully answered, Defendant requests that this Court enter judgment in its favor dismissing the Petition, and award Defendant its reasonable costs, attorney fees, and all such other relief as may be just and proper.

Respectfully submitted,

**CORNELL SMITH MIERL BRUTOCAO
BURTON, LLP**

1607 West Avenue
Austin, Texas 78701
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By: /s/ Andrew Broadaway
Andrew Broadaway

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on April 16, 2021, I sent a true and correct copy of this document by electronic service and U.S. mail to the following representative of record:

Daniel E. Vargas
324 W. University Drive
Edinburg, TX 78539
thevargaslawoffice@gmail.com

By: /s/ Desiree Brutocao
Desiree Brutocao

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[Questions and Answers on Images](#)**CASE NO. C-0858-21-I****BLATHE NICOLE SLOUGH VS. LEGACY HOME HEALTH AGENCY, INC.**

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03/30/2021 Word Documents	certificate of return	1
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03/30/2021 PDF Documents	Legacy Home Health Agency, Inc. - Citation By Cert	1

LIST OF ALL COUNSEL OF RECORD AND PARTIES REPRESENTED

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